

House Bill 982

By: Representative Sims of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to revise substantially the sales and use tax exemption with respect to eligible
3 foods and beverages for off-premises consumption; to provide for the allocation of certain
4 revenue to fund relief from ad valorem property taxes for educational purposes, indigent
5 defense, mental health and mental retardation care, and PeachCare for children and adults;
6 to provide for a contingent effective date; to provide for applicability; to provide for
7 automatic repeal under certain circumstances; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
12 amended by striking paragraph (57) of Code Section 48-8-3, relating to sales and use tax
13 exemption, and inserting in its place a new paragraph (57) to read as follows:

14 "(57)(A) The sale for off-premises human consumption or use of eligible foods and
15 beverages, to the extent provided in subparagraph (B) of this paragraph.

16 (B) A transaction described in subparagraph (A) of this paragraph shall be exempt
17 from sales and use tax only if occurring on or after October 1, 1996, and only to the
18 extent set forth in divisions (i) through (iii) of this subparagraph as follows:

19 (i) For a transaction occurring during the period from October 1, 1996, through
20 September 30, 1997, to the extent of 50 percent of that amount on which, but for this
21 paragraph, sales and use tax would be levied or imposed;

22 (ii) For a transaction occurring during the period from October 1, 1997, through
23 September 30, 1998, to the extent of 75 percent of that amount on which, but for this
24 paragraph, sales and use tax would be levied or imposed; and

(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100 percent of that amount on which, but for this paragraph, sales and use tax would be levied or imposed.

(C) For the purposes of this paragraph, 'eligible food and beverages' means any food as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that eligible food and beverages shall not include seeds or plants to grow food and shall not include food or drink dispensed by or through vending machines or related operations.

(D)(i) The exemption provided for in this paragraph shall not apply to any local sales and use tax levied or imposed at any time by or pursuant to Article 3 of this chapter.

(ii) Except as otherwise provided in division (i) of this subparagraph, the exemption provided for in this paragraph shall not apply to any local sales and use tax which is effective before October 1, 1996, notwithstanding any provisions to the contrary in the law authorizing or imposing such tax.

(iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the exemption provided for in this paragraph shall apply with respect to any local sales and use tax which becomes effective on or after October 1, 1996, but such exemption shall apply only as to transactions occurring on or after October 1, 1998, notwithstanding any provision to the contrary in the law authorizing or imposing such tax.

(iv) The exemption provided for in this paragraph shall apply to any local sales and use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.

(v) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or by or pursuant to Article 3 of this chapter.

(E) The exemption provided for under this paragraph shall apply only to the eligible food and beverage sales in the amount of \$100.00 or less, when purchased by a person who is 65 years of age or over who has a valid picture identification card showing that person's date of birth. The commissioner shall calculate annually an amount equal to the revenue attributable to state sales and use taxation of such items which do not

1 qualify for the exemption, and such amount shall be deposited in the adjustment trust
2 fund under Code Section 48-8-15.

3 ~~(E)~~(F) The commissioner shall adopt rules and regulations to carry out the provisions
4 of this paragraph;"

5 **SECTION 2.**

6 Said title is further amended by adding a new Code section immediately following Code
7 Section 48-8-14, to be designated Code Section 48-8-15, to read as follows:

8 "48-8-15.

9 (a) There is created the adjustment trust fund.

10 (b) The commissioner shall deposit annually into the trust fund the amount provided for
11 under paragraph (57) of Code Section 48-8-3. Such amount shall be allocated annually as
12 follows:

13 (1) Fifty percent of such amount shall be transferred to the department and included in
14 funds provided for homeowner tax relief grants to county and independent school systems
15 under Chapter 89 of Title 36;

16 (2) Twelve and one-half percent of such amount shall be allocated for indigent defense
17 purposes;

18 (3) Twelve and one-half percent of such amount shall be allocated for mental health and
19 mental retardation care purposes; and

20 (4) Twenty-five percent of such amount shall be allocated for PeachCare for children and
21 adults."

22 **SECTION 3.**

23 This Act shall become effective on January 1, 2007; provided, however, that this Act shall
24 only become effective on January 1, 2007, upon the ratification of a resolution at the
25 November, 2006, state-wide general election, which resolution amends the Constitution so
26 as to allocate the revenue from the levy of state sales and use tax on food and beverages for
27 off-premises consumption to provide additional relief from ad valorem property taxes for
28 educational purposes through additional funds for the homeowner's incentive adjustment and
29 to provide funding for indigent defense, mental health and mental retardation care, and
30 PeachCare for children and adults. If such resolution is not so ratified, this Act shall not
31 become effective and shall stand repealed in its entirety on January 1, 2007.

32 **SECTION 4.**

33 All laws and parts of laws in conflict with this Act are repealed.